

State of South Dakota

EIGHTIETH SESSION LEGISLATIVE ASSEMBLY, 2005

814L0555

HOUSE BILL NO. 1175

Introduced by: Representatives Van Etten, Cutler, Dennert, Dykstra, Frost, Garnos, Glenski, Hunhoff, Krebs, McCoy, McLaughlin, Michels, O'Brien, Sebert, Vehle, Weems, and Wick and Senators Knudson, Abdallah, Bogue, Broderick, Duniphan, Earley, Hansen (Tom), Kelly, Koskan, McCracken, McNenny, Moore, and Peterson (Jim)

1 FOR AN ACT ENTITLED, An Act to allow physicians to receive payment for services
2 provided to an injured party when the injured party recovers compensation for the injury
3 from another person.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 44-15 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 For purposes of this Act, a physician is a person licensed pursuant to chapter 36-4 and any
8 corporation, limited liability company, association, county hospital, or municipal hospital
9 employing such physician.

10 Section 2. That chapter 44-15 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Any physician, that furnishes medical care or treatment to an injured person for, or in
13 connection with, any injury for which the injured person asserts a claim against another person
14 for damages based on that injury, has a lien upon the damages recovered by the injured person



1 or the injured person's heir or personal representative. The lien is limited to the amount of
2 reasonable and necessary charges of the physician for the care and treatment of the injured
3 person as of the date of payment of the damages. The provisions of this section do not apply to
4 injuries covered by Title 62, and the lien is not valid against any claimant under Title 62.

5 Section 3. That chapter 44-15 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Any lien or contract made by the injured person or the injured person's heir or personal
8 representative with any attorney for handling the claim for damages on behalf of the injured
9 person or the injured person's heir or personal representative takes priority over the lien granted
10 pursuant to section 2 of this Act.

11 Section 4. That chapter 44-15 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 No lien pursuant to section 2 of this Act is effective unless a written notice is filed in the
14 office of the register of deeds of the county in which the physician is located before the payment
15 of any compensation is made to the injured party, the injured party's attorney, heir, or legal
16 representative. The written notice shall contain:

- 17 (1) The name and address of the injured party;
18 (2) The date of occurrence of the injury;
19 (3) The name and address of the physician; and
20 (4) The name of the person alleged to be liable to the injured party for the injuries
21 received.

22 Section 5. That chapter 44-15 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 The register of deeds shall establish and maintain a physician lien docket in which, upon the

1 filing of any lien pursuant to the provisions of this Act, the register of deeds shall enter the name
2 and address of the injured person, the name of the person alleged to be liable for the injury, the
3 date of occurrence of the injury, and the name and address of the physician claiming the lien.
4 The register of deeds shall make a proper index of the lien in the name of the injured person and
5 shall charge a fee in accordance with subdivision 7-9-15(3).

6 Section 6. That chapter 44-15 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 The physician shall mail, postage prepaid, a copy of the notice required by section 4 of this
9 Act with a statement of the date of filing of the notice of lien to the person alleged to be liable
10 to the injured party for the injury sustained, before the payment of any damages is made to the
11 injured party or the injured party's attorney, heir, or legal representative.

12 Section 7. That chapter 44-15 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 The physician shall mail a copy of the notice required by section 4 of this Act to any
15 insurance carrier that has insured the person alleged to be liable against such liability. The
16 person alleged to be liable to the injured person shall, upon request of the physician, disclose
17 the name of the insurance carrier that has insured such person against such liability.

18 Section 8. That chapter 44-15 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 Any person making any payment after the filing and mailing of the notice to an injured party
21 or to an injured party's attorney, heir, or legal representative as compensation for the injury
22 sustained without paying to the physician the amount of the physician lien or so much thereof
23 as can be satisfied out of the moneys due under any final judgment or compromise or settlement
24 agreement, after paying the amount of any prior lien, is liable, for a period of one year from the

1 date of payment of compensation to the injured party or the injured party's heir, attorney, or legal
2 representative to the physician for the amount that the physician was entitled to receive. The
3 physician may, within such period, enforce the lien by a suit at law against the person making
4 the payment.

5 Section 9. That chapter 44-15 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Any person legally liable for a lien pursuant to section 2 of this Act or against whom a claim
8 is asserted for compensation for such injury, may, after waiver or expiration of any privilege
9 granted the injured party under the provisions of § 19-2-3 or any other statute, examine the
10 records of any physician in reference to the care and treatment of the injured person, with
11 respect to the injury for which the injured person asserted the claim.